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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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22904	7590	01/13/2004	EXAMINER	
LOCKE LIDDELL & SAPP LLP 600 TRAVIS 3400 CHASE TOWER HOUSTON, TX 77002-3095			PATEL, DHIRUBHAI R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/764,572	ACKERMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DHIRU R PATEL	2831	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/08/03
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 23-29 and 35-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-29 and 35-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **Part III DETAILED ACTION**

#### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, for forming a layer onto the faceplate (for claim 35), introducing into the electrical box a layer consisting of a fire retardant gasket (for claim 37), and placing a layer between the faceplate and an electrical box (for claim 43) . The examiner suggest showing reference number for a layer . A proposed drawing correction or corrected drawings are required in reply to the office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

Applicant is responsible for showing reference number for claimed invention.

2. Applicant is required to submit a proposed drawing correction in reply to this office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 35-45 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a faceplate for an electrical box, the specification does not reasonably provide enablement for forming a layer onto the faceplate (for claim 35), introducing into the electrical box a layer consisting of a fire retardant gasket (for claim 37), and placing a layer between the faceplate and an electrical box (for claim 43). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or assemble the invention commensurate in scope with the claims. The specification doesn't reasonably disclose the claimed subject matter of claims 35, 37 and 43, and therefore the subject matter of claims 35, 37 and 43 are not enabled by the disclosure of the invention. The applicant is required to cancel the claims or provide a reasonable explanation of why they feel the specification supports the subject matter as disclosed in claims 35, 37 and 43.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 23-29, 35- 36, 43-45 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 23 line 6, " at least partially reestablishing a fire rating of the barrier"

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is confusing because partially means fire ratings of 1,2,3 or 4 hours?. The examiner interpreted as " a fire rating of the barrier " is minimum an hour.

In claim 35 line 7, " at least partially reestablishing a fire rating of the barrier" is confusing because partially means fire ratings of 1,2,3 or 4 hours?. The examiner interpreted as " a fire rating of the barrier " is minimum an hour.

In claim 43 line 7, " at least partially reestablishing a fire rating of the barrier" is confusing because partially means fire ratings of 1,2,3 or 4 hours?. The examiner interpreted as " a fire rating of the barrier " is minimum an hour.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of

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this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 23-27, 29, and 35- 38, 40-41, 43, 45 as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Tricca (4,293,173).

Assembly of the device of Tricca comprises the method steps of:

Regarding claim 23, a method of assisting a compromised barrier 18 (wall, see fig 3, abstract lines 1-8, column 1 lines 60-68, column 2 lines 1-2, column 3 lines 50-60) comprising: a) providing a gasket 14 (insulating plate , see fig 3, column 2 lines 50-60, column 3 lines 20-38, column 3 lines 39-60) comprising fire retardant material ( see column 3 lines 20-38);

b) placing the fire retardant gasket 14 between a faceplate 21 and an electrical box 23 (see fig 3, column 2 lines 8-33, and lines 50-65) adapted to be introduced into the barrier 18 ( see fig 3, column 2 lines 8-33, column 3 lines 39-63); c) coupling the faceplate 21 to the box 23 ( see column 2 lines 50-65, column 3 lines 55-66) ; and d) at least partially reestablishing a fire rating of the barrier (see column 1 lines 65-68, column 2 lines 1-2, column 3 lines 53-56, column 4 lines 9-15).

Regarding claim 24 , further comprising coupling the gasket 14 (see fig 3) in situ between the faceplate 21 and the box 23 (see fig3, column 3 lines 50-65).

Regarding claim 25 , providing the gasket 14 comprises forming the gasket 14 as a separate element (see column 2 lines 50-60, column 3 lines 25-30) prior to placing the gasket 14 between the faceplate 21 and the box 23 (see fig 3, column 3 lines 50-60, column 3 lines 25-30).

Regarding claim 26 , further comprising forming the gasket 14 on one or more surfaces of the faceplate 21 prior to coupling the faceplate 21 to the box 23 (see column 2 lines 8-33, column 3 lines 25-55).

Regarding claims 29, 41 and 45, the fire retardant material comprises fire resistant insulative material (see column 2 lines 15-25, column 3 lines 20-39).

Regarding claims 27, and 36, the gasket 14 is being formed by establishing a coating of the fire retardant material onto the faceplate 21 (see column 2 lines 15-25, column 3 lines 20-38).

Regarding claim 35, considering 112 first paragraph, as best understood, a method for assisting a compromised barrier 18 (wall, see fig 3, abstract lines 1-8, column 1 lines 60-68, column 2 lines 1-2, column 3 lines 39-60) comprising: providing a faceplate 21 ( see fig 3, column 2 lines 8-33 and lines 50-65) for an electrical box 23 (see fig 3, column 2 lines 50-65, column 3 lines 55-65) adapted to be introduced into the barrier 18 ( see fig 3, column 1 lines 60-68, column 2 lines 1-2, column 3 lines 39-63); b) forming a layer onto the faceplate 21, the layer consisting of a gasket 14 comprising fire retardant material

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(insulating plate , see fig 3, column 2 lines 50-60, column 3 lines 20-38 and column 3 lines 39-60) , c) coupling the faceplate 21 to the box 23 ( see column 2 lines 50-65 , column 3 lines 55-66) ; and d) at least partially reestablishing a fire rating of the barrier (see column 1 lines 65-68, column 2 lines 1-2, column 3 lines 53-56, and column 4 lines 9-15).

Regarding claim 37, considering 112 first paragraph, as best understood, a method for assisting a compromised barrier comprising: installing into a fire rated barrier 18 (wall, see fig 3, abstract lines 1-8, column 1 lines 60-68, column 2 lines 1-2, column 3 lines 39-60 ) an electrical box 23 ( see fig 3, column 2 lines 50-65, column 3 lines 55-66) , the electrical box compromising the fire resistance of the fire rated barrier (see column 2 lines 8-33, column 4 lines 9-20), introducing into the electrical box 23 a layer consisting of a fire retardant gasket 14 (insulating plate , see fig 3, column 2 lines 50-60, column 3 lines 20-38 and column 3 lines 39-60); and covering the electrical box 23 with a faceplate 21 ( see fig 3, column 2 lines 50-65 , column 3 lines 55-60) .

Regarding claim 38, the fire retardant gasket being adhered to the faceplate prior to covering the electrical box with the faceplate (see column 2 lines 8-33, column 3 lines 25-55).



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Regarding claim 40, the fire retardant gasket being introduced to the electrical box without removing the electrical box from the fire resistant barrier (see fig 1, column 2 lines 8-40, column 3 lines 1-65, column 4 lines 1-33).

Regarding claim 43, considering 112 first paragraph, as best understood, a method of assisting a compromised barrier 18(wall, see fig 3, abstract lines 1-8, column 1 lines 60-68, column 2 lines 1-2, column 3 lines 50-60) comprising: providing a faceplate 21 ( see fig 3, column 2 lines 8-33 and lines 50-65 ) for an electrical box 23 (see fig 3, column 2 lines 50-65, column 3 lines 55-65) adapted to be introduced into the barrier 18 ( see fig 3, column 1 lines 60-68, column 2 lines 1-2, column 3 lines 39-63 ); b) placing a layer between the faceplate 21 and an electrical box 23 ( see fig 3) adapted to be introduced into the barrier 18 ( see fig 3, column 1 lines 60-68, column 2 lines 1-2, column 3 lines 39-63 ), the layer consisting of a fire retarding gasket 14 (insulating plate , see fig 3,column 2 lines 50-60, column 3 lines 20-38 and column 3 lines 39-60 ) ; c) coupling the faceplate 21 to the box 23 ( see column 2 lines 50-65 , column 3 lines 55-66 ) ; and d) at least partially reestablishing a fire rating of the barrier ( see column 1 lines 65-68, column 2 lines 1-2, column 3 lines 53-56, and column 4 lines 9-15).

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7. Claims 23- 29, and 35-41, 43-45 as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Dykhoff et al (6,521,834).

Assembly of the device of Dykhoff et al comprises the method steps of:

Regarding claim 23, a method of assisting a compromised barrier 4 (wall, see fig 1, abstract lines 1-9, column 1 lines 5-12, column 3 lines 40-50, column 4 lines 30-40, column 14 lines 45-55) comprising: a) providing a gasket 8,30 (a fire stopping mat, see figs 3-6, column 2 lines 10-64, column 3 lines 40-50, column 4 lines 30-45, column 5 lines 1-10) comprising fire retardant material (intumescent compound, see abstract lines 7-14, column 14 lines 40-50); b) placing the fire retardant gasket between a faceplate 6 ( see figs 1, 3-6, column 4 lines 30-53, column 5 lines 1-20) and an electrical box 10 (see fig 1, column 2 lines 10-25, column 14 lines 38-55) adapted to be introduced into the barrier 4 ( see fig 1, column 3 lines 20-50, column 4 lines 30-60); c) coupling the faceplate 6 to the box 10 ( see fig 1 , column 4 lines 30-54) ; and d) at least partially reestablishing a fire rating of the barrier (see column 3 lines 20-40).

Regarding claim 24 , further comprising coupling the gasket 8, 30 (see figs 1 and 5) in situ between the faceplate 6 and the box 10 (see column 3 lines 30-50, column 16 lines 10-16).

Regarding claim 25 , providing the gasket 8, 30 comprises forming the gasket 8, 30 as a separate element (see column 16 lines 10-16) prior to placing the

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gasket 8,30 between the faceplate 6 and the box 10 (see figs 1 and 5, column 4 lines 30-50 and column 16 lines 10-16).

Regarding claim 26 , further comprising forming the gasket on one or more surfaces of the faceplate 6 prior to coupling the faceplate 6 to the box 10 (see column 5 lines 1-20, column 16 lines 10-16).

Regarding claims 27, and 36, the gasket 30 is being formed by establishing a coating of the fire retardant material onto the faceplate 6 (see abstract lines 1-10, column 2 lines 29-35, column 15 lines 1-11).

Regarding claim 28, the fire retardant material comprises intumescent material (see abstract lines 7-13, column 3 lines 30-40) .

Regarding claims 29 , 41 and 45, the fire retardant material (for claim 29), and the fire retardant gasket (for claims 41, 45) comprises fire resistant insulative material (an intumescent compound, an endothermic compound, see column 3 lines 19-50).

Regarding claim 35, considering 112 first paragraph, as best understood, a method of assisting a compromised barrier 4 (wall, see fig 1, abstract lines 1-9, column 1 lines 5-12, column 3 lines 40-50, column 4 lines 30-40, column 14 lines 45-55) comprising: providing a faceplate 6 ( see figs 1,3-6, column 4 lines 30-53, column 5 lines 1-20) for an electrical box 10 (see fig 1, column 2 lines 10-25, column 14 lines 38-55) adapted to be introduced into the barrier 4 ( see

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fig 1, column 3 lines 20-50, column 4 lines 30-60); b) forming a layer onto the faceplate, the layer consisting of a gasket 8, 30 comprising fire retardant material (a fire stopping mat, see figs 3-6, column 3 lines 40-50, column 4 lines 30-45, column 5 lines 1-10, column 2 lines 10-64); c) coupling the faceplate 6 to the box 10 ( see fig 1 , column 4 lines 30-54) ; and d) at least partially reestablishing a fire rating of the barrier (see column 3 lines 20-40).

Regarding claim 37, considering 112 first paragraph, as best understood, a method of assisting a compromised barrier 4 (wall, see fig 1, abstract lines 1-9, column 1 lines 5-12, column 3 lines 40-50, column 4 lines 30-40, column 14 lines 45-55) comprising: installing into a fire rated barrier 4 (wall, see fig 1, abstract lines 1-9, column 1 lines 5-12, column 3 lines 40-50, column 4 lines 30-40, column 14 lines 45-55) an electrical box 10 (see fig 1, column 2 lines 10-25, column 14 lines 38-55) , the electrical box compromising the fire resistance of the fire rated barrier (see column 1 lines 5-12, column 2 lines 1-8), introducing into the electrical box a layer consisting of a fire retardant gasket 8, 30 (a fire stopping mat, see figs 3-6, column 3 lines 40-50, column 4 lines 30-45, column 5 lines 1-10, column 2 lines 10-64); and covering the electrical box with a faceplate 6 ( see column 2 lines 1-10, column 4 lines 30-60) .

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Regarding claim 38, the fire retardant gasket being adhered to the faceplate prior to covering the electrical box with the faceplate (see column 2 lines 1-10, column 14 lines 40-50, column 16 lines 10-18).

Regarding claim 39, the fire retardant gasket is an intumescent gasket (see abstract lines 7-13, column 3 lines 40-50, and column 16 lines 10-16).

Regarding claim 40, the fire retardant gasket being introduced to the electrical box without removing the electrical box from the fire resistant barrier (see fig 1, column 2 lines 29-40).

Regarding claim 43, considering 112 first paragraph, as best understood, a method of assisting a compromised barrier 4 (wall, see fig 1, abstract lines 1-9, column 1 lines 5-12, column 3 lines 40-50, column 4 lines 30-40, column 14 lines 45-55) comprising: providing a faceplate 6 ( see figs 3-6, column 4 lines 30-53, column 5 lines 1-20) for an electrical box 10 (see fig 1, column 2 lines 10-25, column 14 lines 38-55) adapted to be introduced into the barrier 4 ( see fig 1, column 3 lines 20-50, column 4 lines 30-60); placing a layer 30a between the faceplate 6 ( see figs 3-6, column 4 lines 30-53, column 5 lines 1-20), the layer consisting of a fire retarding gasket 30 (see column 5 lines 1-65) ; c) coupling the faceplate 6 to the box 1 ( see fig 1 , column 4 lines 30-54) ; and d) at least partially reestablishing a fire rating of the barrier (see column 3 lines 20-50).

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Regarding claim 44, the fire retardant gasket comprises intumescent material (see abstract lines 7-13, column 3 lines 30-40) .

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 28, 39 and 44 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Tricca (4,293,173).

The assembly of Tricca disclose all of the claimed features as shown above including please note that Tricca disclosed that the fire retardant material can be any suitable thermal insulating material (see column 3 lines 33-36), but fails to disclose the fire retardant material comprises intumescent material (for claim 28), the fire retardant gasket is an intumescent gasket (for claim 39) and the fire retardant gasket comprises intumescent material (for claim 44) . It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Tricca with the fire retardant material comprises intumescent material (for claim 28), and the fire retardant gasket being made from intumescent material (for claims 39 and 44) , since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

9. Claim 42 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Tricca (4,293,173) in view of applicant's own admission.

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Regarding claim 42 Tricca disclose all the features of the claimed invention as shown above please note that Tricca disclosed that the fire retardant material can be any suitable thermal insulating material (see column 3 lines 33-36), but fails to disclose the fire resistant insulative material being mineral wool, ceramic fiber or intumescent graphite. As disclosed by applicants in the specification page 6, lines 5-15, applicant's disclose that intumescent material are known to those with ordinary skill in the art including other fire retardant material include, without limitation and merely by way of further example, fire resistant insulative material such as mineral wool, ceramic fibers, and intumescent graphite. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Tricca with the fire resistant insulative material being mineral wool, ceramic fiber or intumescent graphite (for claim 42) as evidenced by applicant's own admission , and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

10. Claim 42 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Dykhoff et al (6,521,834) in view of applicant's own admission.



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Regarding claim 42 Dykhoff et al disclose all the features of the claimed invention as shown above, but fails to disclose the fire resistant insulative material being mineral wool, ceramic fiber or intumescent graphite. As disclosed by applicants in the specification page 6, lines 5-15, applicant's disclose that intumescent material are known to those with ordinary skill in the art including other fire retardant material include, without limitation and merely by way of further example, fire resistant insulative material such as mineral wool, ceramic fibers, and intumescent graphite. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of the assembly of Dykhoff et al with the fire resistant insulative material being mineral wool, ceramic fiber or intumescent graphite (for claim 42) as evidenced by applicant's own admission , and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

### **Conclusion**

**11. Applicant's amendment necessitated th new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).**

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***A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.***

#### **Response to Arguments**

12. Applicant's arguments with respect to claims 23-29, 35-45 have been considered but are moot in view of the new ground(s) of rejection.

#### **Contact information**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhuru Patel whose telephone number is (703) 308 -3748. The examiner can normally be reached on Mondays-

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Thursdays from 6:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard be reached at 703-308-3682. The fax number for this Group is 703-305-3431. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Dhiru Patel  
Patent Examiner  
Group Art Unit 2831  
January 8, 2004

*Dhiru Patel*  
*Primary Examiner*  
*1/8/04.*